

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**DANIEL GEORGE CLARK, M.D.**

**Case No. 800-2017-033242**

**Physician's and Surgeon's  
Certificate No. A23338**

**Respondent**

**DECISION**


**The attached Stipulated Surrender of License and Order is hereby adopted  
as the Decision and Order of the Medical Board of California, Department of  
Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on March 1, 2019.**

**IT IS SO ORDERED February 22, 2019**

**MEDICAL BOARD OF CALIFORNIA**

**By:**

  
\_\_\_\_\_  
**Kimberly Kirchmeyer  
Executive Director**

1 XAVIER BECERRA  
Attorney General of California  
2 STEVEN D. MUNI  
Supervising Deputy Attorney General  
3 JANNSEN TAN  
Deputy Attorney General  
4 State Bar No. 237826  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-7549  
Facsimile: (916) 327-2247  
7

8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. 800-2017-033242

14 **DANIEL GEORGE CLARK, M.D.**  
15 **5250 Morningside Ave.**  
**Auburn, CA 95602**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

16 **Physician's and Surgeon's Certificate**  
17 **No. A 23338**

18 Respondent.

19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
24 of California (Board). She brought this action solely in her official capacity and is represented in  
25 this matter by Xavier Becerra, Attorney General of the State of California, by Jannsen Tan,  
26 Deputy Attorney General.

27 ///

28 ///



1 **CULPABILITY**

2 8. Respondent understands and agrees that the charges and allegations in Accusation  
3 No. 800-2017-033242, if proven at a hearing, constitute cause for imposing discipline upon his  
4 Physician's and Surgeon's Certificate.

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of  
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual  
7 basis for the charges in the Accusation and that those charges constitute cause for discipline.  
8 Respondent hereby gives up his right to contest that cause for discipline exists based on those  
9 charges.

10 10. Respondent understands that by signing this stipulation he enables the Board to issue  
11 an order accepting the surrender of his Physician's and Surgeon's Certificate without further  
12 process.

13 **RESERVATION**

14 11. The admissions made by Respondent herein are only for the purposes of this  
15 proceeding, or any other proceedings in which the Medical Board of California or other  
16 professional licensing agency is involved, and shall not be admissible in any other criminal or  
17 civil proceeding.

18 12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent  
19 part, that the Medical Board "shall delegate to its executive director the authority to adopt a  
20 stipulation for surrender of a license."

21 13. This Stipulated Surrender of License and Disciplinary Order shall be subject to  
22 approval of the Executive Director on behalf of the Medical Board. The parties agree that this  
23 Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive  
24 Director for her consideration in the above-entitled matter and, further, that the Executive  
25 Director shall have a reasonable period of time in which to consider and act on this Stipulated  
26 Surrender of License and Disciplinary Order after receiving it. By signing this stipulation,  
27 Respondent fully understands and agrees that he may not withdraw his agreement or seek to  
28

1 rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board,  
2 considers and acts upon it.

3 14. The parties agree that this Stipulated Surrender of License and Disciplinary Order  
4 shall be null and void and not binding upon the parties unless approved and adopted by the  
5 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full  
6 force and effect. Respondent fully understands and agrees that in deciding whether or not to  
7 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive  
8 Director and/or the Board may receive oral and written communications from its staff and/or the  
9 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the  
10 Executive Director, the Board, any member thereof, and/or any other person from future  
11 participation in this or any other matter affecting or involving Respondent. In the event that the  
12 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this  
13 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it  
14 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied  
15 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees  
16 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason  
17 by the Executive Director on behalf of the Board, Respondent will assert no claim that the  
18 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,  
19 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or  
20 of any matter or matters related hereto.

21 **ADDITIONAL PROVISIONS**

22 15. This Stipulated Surrender of License and Disciplinary Order is intended by the parties  
23 herein to be an integrated writing representing the complete, final and exclusive embodiment of  
24 the agreements of the parties in the above-entitled matter.

25 16. The parties agree that copies of this Stipulated Surrender of License and Disciplinary  
26 Order, including copies of the signatures of the parties, may be used in lieu of original documents  
27 and signatures and, further, that such copies and signatures shall have the same force and effect as  
28 originals.

17. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Medical Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

## ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 23338, issued to Respondent Daniel George Clark, M.D., is surrendered and accepted by the Medical Board of California.

1. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

2. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2017-033242 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2017-033242 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

## ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorneys Renju Jacob, Esq., and Sarah Glatt, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

1 DATED:

NOV 27, 2018

Daniel G. Clark M.D.

DANIEL GEORGE CLARK, M.D.

Respondent

2  
3 I have read and fully discussed with Respondent Daniel George Clark, M.D. the terms and  
4 conditions and other matters contained in this Stipulated Surrender of License and Order. I  
5 approve its form and content.

6 DATED:

November 27, 2018



Attorney for Respondent

7  
8  
9 ENDORSEMENT

10 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
11 for consideration by the Medical Board of California of the Department of Consumer Affairs.

12 Dated:

1/10/2019

Respectfully submitted,

XAVIER BECERRA

Attorney General of California

STEVEN D. MUNI

Supervising Deputy Attorney General

JANNSEN TAN

Deputy Attorney General

Attorneys for Complainant

20 SA2018303000

21 33654592.docx

**Exhibit A**

**Accusation No. 800-2017-033242**

1 XAVIER BECERRA  
Attorney General of California  
2 STEVEN MUNI  
Supervising Deputy Attorney General  
3 JANNSEN TAN  
Deputy Attorney General  
4 State Bar No. 237826  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-7549  
Facsimile: (916) 327-2247  
7 Attorneys for Complainant

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO Oct 22 20 18  
BY NSV ANALYST

8 BEFORE THE  
9 MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
10 STATE OF CALIFORNIA

11  
12 In the Matter of the Accusation Against:

Case No. 800-2017-033242

13 Daniel George Clark, M.D.  
5250 Morningside Ave.  
14 Auburn, CA 95602

ACCUSATION

15 Physician's and Surgeon's Certificate  
No. A 23338,

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs (Board).

23 2. On or about July 1, 1969, the Medical Board issued Physician's and Surgeon's  
24 Certificate No. A 23338 to Daniel George Clark, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and expired on May 31, 2016, is in delinquent status, and has not been renewed.

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

. 2  
3

4.

5  
6  
7  
8

9

10

11

12  
13

14

15

16  
17

18  
19  
20  
21  
22  
23

24

25  
26  
27

28

1       “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
2 violation of, or conspiring to violate any provision of this chapter.

3       “(b) Gross negligence.

4       “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
6 the applicable standard of care shall constitute repeated negligent acts.

7       “(1) An initial negligent diagnosis followed by an act or omission medically appropriate for  
8 that negligent diagnosis of the patient shall constitute a single negligent act.

9       “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
11 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the  
12 applicable standard of care, each departure constitutes a separate and distinct breach of the  
13 standard of care.

14       “(d) Incompetence.

15       “(e) The commission of any act involving dishonesty or corruption which is substantially  
16 related to the qualifications, functions, or duties of a physician and surgeon.

17       “(f) Any action or conduct which would have warranted the denial of a certificate.

18       “(g) The practice of medicine from this state into another state or country without meeting  
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
20 apply to this subdivision. This subdivision shall become operative upon the implementation of the  
21 proposed registration program described in Section 2052.5.

22       “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
23 participate in an interview by the board. This subdivision shall only apply to a certificate holder  
24 who is the subject of an investigation by the board.”

25       6.     Section 725 of the Code states:

26       “(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering  
27 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated  
28 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of

1 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,  
2 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language  
3 pathologist, or audiologist.

4 “(b) Any person who engages in repeated acts of clearly excessive prescribing or  
5 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of  
6 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by  
7 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and  
8 imprisonment.

9 “(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or  
10 administering dangerous drugs or prescription controlled substances shall not be subject to  
11 disciplinary action or prosecution under this section.

12 “(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section  
13 for treating intractable pain in compliance with Section 2241.5.”

14 **FIRST CAUSE FOR DISCIPLINE**  
15 **(Gross Negligence-Patient A)**

16 7. Respondent is subject to disciplinary action under sections 2234, subdivision (b) and  
17 2234 in that he committed acts of gross negligence and unprofessional conduct in his care and  
18 treatment of Patient A<sup>1</sup>. The circumstances are as follows:

19 8. On or about March 12, 2012, Respondent saw Patient A as a new referral for back  
20 pain. Patient A was a 22-year-old male who had back pain since 2011. Patient A's medication  
21 list at the time was Naproxen, Vicodin, Baclofen for back pain. Respondent documented  
22 “Patient A had right lumbar pain February, 2011, right thigh tingling with foot numbness  
23 August, 2011, with Emergency Department visit and doctor's visit in Castro Valley.” He noted  
24 negative x-ray September, 2011. He circled "No" on ETOH use. Respondent's assessment was  
25 "DDD with HNP L4-5 with impingement, with radiculitis, without radiculopathy." Respondent  
26 documented his plan was "long discussion with diagram & model-re: Dx, pathophysiology,  
27

28 <sup>1</sup> All patients will be identified in discovery.

1 treatment option. No surgical intervention. Refer for epidural. Add Neurontin 800, taper to 2  
2 TID. DC Vicodin. Add Fentanyl 50 q3d #10."

3 9. Respondent advised Patient A to stop taking Hydrocodone-Acetaminophen 5/325,  
4 and prescribed Duragesic (Fentanyl) at 50 mcg/hr, qty 10. Patient A last filled a prescription for  
5 Hydrocodone-Acetaminophen 5/325 on February 28, 2012, qty 60.

6 10. On or about March 20, 2012, Patient A filled a prescription from another provider  
7 for Hydrocodone-Acetaminophen 10/325, qty 30.

8 11. On or about March 23, 2012, Respondent saw Patient A for a follow up visit.  
9 Respondent documented "leg pain significant ↓. Back pain no benefit with Fentanyl, stiff pain  
10 with each step." Respondent circled "Yes" on ETOH use. Respondent documented his  
11 assessment as "DDD with ↓ radiculitis." Respondent documented his plan was "↑ Fentanyl 50-  
12 +100 #10, epidural referral."

13 12. Respondent increased Patient A's Duragesic (Fentanyl) prescription to 100 mcg/hr.,  
14 qty 10.

15 13. On or about April 2, 2012, Respondent documented that Patient A had died."

16 14. Respondent committed gross negligence in his care and treatment of Patient A in that  
17 he prescribed a long acting opioid, Duragesic patch for a patient at a significant increased dose  
18 during the first visit and doubled the dosage two weeks later, while Patient A still possessed at  
19 least half of the supply of the previous dosage.

20 **SECOND CAUSE FOR DISCIPLINE**  
21 **(Excessive Prescribing-Patient A)**

22 15. Respondent is subject to disciplinary action under sections 2234, and 725 in that he  
23 excessively prescribed Duragesic in his care and treatment of Patient A. The circumstances are  
24 as follows. Paragraphs 8 through 14, above, are hereby incorporated by reference and realleged  
25 as if fully set forth herein.

26 ///

27 ///

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Medical Board of California issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate No. A.23338, issued to  
5 Daniel George Clark, M.D.;

6 2. Revoking, suspending or denying approval of Daniel George Clark, M.D.'s authority  
7 to supervise physician assistants and advanced practice nurses;

8 3. Ordering Daniel George Clark, M.D., if placed on probation, to pay the Board the  
9 costs of probation monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.

11  
12 DATED:

13 October 22, 2018

14   
15 KIMBERLY KIRCHMEYER  
16 Executive Director  
17 Medical Board of California  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant

21  
22  
23  
24  
25  
26  
27  
28 SA2017306160.  
33611105.docx